
1992 Wis Eth Bd 14
LOBBYING AND LOBBYISTS; CAMPAIGN ACTIVITIES

A candidate for elective state office may not accept anything of pecuniary value, including salary or wages, from a business or organization that employs a lobbyist. An individual employed by a principal may, consistent with statutes administered by the Ethics Board, take a leave of absence from his or her employment during the candidacy as long as the employer does not furnish the candidate with any salary or other benefits that had not already vested in the candidate prior to the candidacy.

[1991 Act 269 amended §13.625, *Wisconsin Statutes*, to permit a principal that employs an individual who becomes a candidate for election to a state office to continue to pay, and the individual to receive, the individual's salary or wages and employee benefits during the candidacy provided the employer or candidate can clearly and convincingly demonstrate that the employment is independent of the candidacy.] OEB 92-14

April 17, 1992

Facts

- [1] The opinion is based upon these understandings:
- a. You are contemplating becoming a candidate for elective state office.
 - b. You are employed by a business that is a lobbying principal, i.e., an organization that employs a lobbyist.

Questions

- [2] The Ethics Board understands your question to be:

May a candidate for elective state office be employed by an organization that employs a lobbyist?

Discussion

- [3] The legislature has prohibited candidates for elective state office from receiving anything of pecuniary value from lobbyists or principals.¹ A

¹ §13.625(1) (b), (2), and (3), *Wisconsin Statutes*, provides:

13.625 Prohibited practices. (1) No lobbyist may:

principal means any person who employs a lobbyist.² The prohibition has been understood to encompass receiving a salary or other employer-paid benefits as an employee of a principal regardless of the candidate's job duties with an employer.³ The legislature to date has declined to modify the statute to change this result. However, as long as a candidate for state elective office neither receives nor accumulates any salary or other benefits from an employer that employs a lobbyist, the candidate may take a leave of absence, rather than resign, from the employer during candidacy. If elected, the candidate may remain on leave of absence if the employer's general policy is to permit similar leaves for other employees.⁴

[4] The Ethics Board questions whether sound public policy supports the legislature's prohibition in the present context to prevent a candidate for state office from continuing to receive a salary from an employer that

(b) Furnish to any agency official or legislative employe of the state or to any elective state official or candidate for an elective state office, or to the official's, employe's or candidate's personal campaign committee:

1. Lodging.

2. Transportation.

3. Food, meals, beverages, money or any other thing of pecuniary value, except that a lobbyist may make a campaign contribution to a partisan elective state official or candidate for national, state or local office or to the official's or candidate's personal campaign committee; but a lobbyist may make a contribution to which par. (c) applies only as authorized in par. (c).

(2) No principal may engage in the practices prohibited under sub. (1) (b) and (c). This subsection does not apply to the furnishing of transportation, lodging, food, meals, beverages or any other thing of pecuniary value which is also made available to the general public.

(3) No candidate for an elective state office, elective state official, agency official or legislative employe of the state may solicit or accept anything of pecuniary value from a lobbyist or principal, except as permitted under subs. (1)(b)3 and (c), (2), (5), (6), (7), (8) and (9). No personal campaign committee of a candidate for state office may accept anything of pecuniary value from a lobbyist or principal, except as permitted for such a candidate under subs. (1) (b) 3 and (c), (2) and (6).

² § 13.62(12), *Wisconsin Statutes*, provides:

13.62(12) "Principal" means any person who employs a lobbyist. If an association, corporation or partnership engages a lobbyist, an officer, employe, member, shareholder or partner of the association, corporation or partnership shall not be considered a principal.

³ 1991 Wis Eth Bd 01. A person running for elective state office may, consistent with the lobbying law, continue to participate in an employer's group health insurance plan and the like as long as the employer pays no part of the premiums. Op. Eth. Bd. 603 (September 13, 1990).

⁴ §19.45 (2), *Wisconsin Statutes*, provides:

19.45(2) No state public official may use his or her position or office to obtain financial gain or anything of substantial value for. . . private benefit

"Anything of value" includes any "promise of future employment". §19.42 (1), *Wisconsin Statutes*.

employs a lobbyist, where the candidate's employment antedates the candidacy. Such a prohibition can serve as a barrier to individuals running for public office. And it seems particularly harsh in instances in which the candidate does not hold a policymaking position with the employer. At the Ethics Board's request a statutory amendment was introduced in the legislature that would permit a principal that employs an individual who becomes a candidate for election to a state office to continue to pay, and the individual to receive, the individual's salary or wages and employee benefits during the candidacy provided the employer or candidate can clearly and convincingly demonstrate that the employment is independent of the candidacy. Both houses of the legislature have acted favorably on the amendment. If approved by the governor the amendment will permit you to continue to receive salary from your present employment until such time as you assume an elected state public office.

Advice

[5] A candidate for elective state office may not accept anything of pecuniary value, including salary or wages, from a business or organization that employs a lobbyist. An individual employed by a principal may, consistent with statutes administered by the Ethics Board, take a leave of absence from his or her employment during the candidacy as long as the employer does not furnish the candidate with any salary or other benefits that had not already vested in the candidate prior to the candidacy.

[6] A measure already approved by both houses of the legislature [1991 Senate Bill 483] will, if approved by the Governor, permit a principal that employs an individual who becomes a candidate for election to a state office to continue to pay, and the individual to receive, the individual's salary or wages and employee benefits during the candidacy provided the employer or candidate can clearly and convincingly demonstrate that the employment is independent of the candidacy.